

REMARKS/ARGUMENTS

No new matter has been added by the above amendments, and thus, the Examiner is respectfully requested to enter the amendments.

The amendments to paragraphs [0025] and [0040] are to correct minor, typographical errors.

The amendment to independent claim 1 regarding the “hot blown” film “for chub packaging” finds support throughout the specification, particularly in paragraphs [0042] and [0043], and also, “hot blown” film finds support in dependent claim 26, which is now canceled. Support for the amendment to independent claim 1 regarding the “combinations thereof” at the end of part “a” of claim 1 can be found in the “and/or” language in paragraph [0019].

Each of dependent claims 18 and 23 has been amended to place it into independent form.

Various claims have been amended, as suggested by the Examiner, to reflect that the percentages in the claims are “by weight”. Support is throughout the specification, and also, it noted that it is well known that the commercial products as purchased are percentages “by weight”.

Editorial corrections have been effected in each of claims 18, 22, and 23.

Objection to claims 18, 22, and, 23 under 35 USC 112, second paragraph.

The various editorial corrections suggested by the Examiner have been effected in each of claims 18, 22, and 23. Claim 18 has also been amended to be in independent form.

As the Examiner made no rejections of claim 18 under 102(b) and/or 103(a), applicant respectfully submits that claim 18 is now allowable, and the Examiner is respectfully requested to allow this claim.

Rejection of claims 1-10, 12, 15, 16, 19 -22, 24, 25, and 26 under 35 USC 102(b) as being anticipated by US Patent 6,146,726 to Yoshii, et al.

Independent claim 1 has been amended (and thus, all of dependent claims 1 – 10, 12, 15, 16, 19 – 22, 24, and 25, due to incorporation by reference) regarding the “hot blown” film “for chub packaging” to distinguish over US Patent 6,146,726 to Yoshii, et al., which discloses heat-shrinkable films. (Dependent claim 26 has been canceled, mooting the rejection.)

As is well known in the art of plastic packaging films, hot blown films are not heat-shrinkable. Moreover, for the chub application of the present invention, heat shrinkability is not a desirable feature; heat shrinkable film is too expensive and difficult to produce, requiring particular extruders, for an application that does not require heat shrinkability.

Applicant respectfully notes, as the Examiner should be well aware, that for a reference to be a reference under any part of 102, that reference, by itself, must teach each and every element of the claimed invention. This is not achieved by US Patent 6,146,726 to Yoshii, et al. since this reference is directed to heat-shrinkable plastic films, not to hot blown plastic films.

Accordingly, the Examiner is respectfully requested to withdraw the rejection of claims 1-10, 12, 15, 16, 19 -22, 24, and 25 under 35 USC 102(b) as being anticipated by US Patent 6,146,726 to Yoshii, et al. (Dependent claim 26 has been canceled; mooting the rejection.)

Also, the introduction of independent claim 1 has been amended (and thus, all of dependent claims 1 – 10, 12, 15, 16, 19 – 22, 24, and 25, due to incorporation by reference) to employ the connector “consisting essentially of” instead of “comprising”.

Applicant respectfully notes, as is well known in the case law, use of the connector “consisting essentially of” instead of “comprising” excludes whatever would materially change the basic nature of the claimed invention.

The purpose here is to exclude the film having polyamide, copolyamide, and nylon 6 (a type of polyamide), and to exclude the film being a lay-flat self-welding film, shown in US Patent 4,909,726 to Bekele (cited by the Examiner in the 103(a) rejection discussed below), as this reference does show that the film is a hot blown film for chub packaging. Thus, the Examiner cannot combine US Patent 4,909,726 to Bekele with US Patent 6,146,726 to Yoshii, et al. in a 103(a) rejection against claims 1 – 10, 12, 15, 16, 19 – 22, 24, and 25. (Dependent claim 26 has been canceled; mooting any possible rejection.)

Rejection of claims 7, 11, 13, 14, 17, 27, and 28 under 35 USC 103(a) as being obvious over US Patent 6,146,726 to Yoshii, et al., in view of US Patent 4,909,726 to Bekele and US Patent 6,074,715 to Lind, et al.

As noted above, the introduction of independent claim 1 has been amended to employ the connector “consisting essentially of” instead of “comprising”, and hence, all of dependent claims 7, 11, 13, 14, 17, 27, and 28, due to incorporation by reference, are also thus amended.

Applicant respectfully notes, as is well known in the case law, use of the connector “consisting essentially of” instead of “comprising” excludes whatever would materially change the basic nature of the claimed invention.

The purpose here is to exclude the film having polyamide, copolyamide, and nylon 6 (a type of polyamide), and to exclude the film being a lay-flat self-welding film, shown in US Patent 4,909,726 to Bekele (cited by the Examiner in the 103(a) rejection), as this reference does show the film is a hot blown film for chub packaging.

The present application contains comparative data of applicant's inventive film (Example 1 in the present application), which is *free of polyamide and copolyamide*, versus a comparative film having copolyamide (Example 2 in the present application), clearly showing unexpected superior impact test data at 0° C for applicant's inventive film as follows:

FILM	IMPACT TEST DATA
applicant's inventive film <i>(free of polyamide and copolyamide)</i>	450 grms
comparative film <i>(contains copolyamide)</i>	210 grms

see particularly, paragraphs [0089] and [0090].

Also, as noted above, independent claim 1 has been amended regarding the "hot blown" film "for chub packaging", and hence, all of dependent claims 7, 11, 13, 14, 17, 27, and 28, due to incorporation by reference, are also thus amended.

Both US Patent 6,146,726 to Yoshii, et al. and US Patent 6,074,715 to Lind, et al. disclose heat-shrinkable films. As is well known in the art of plastic packaging films, hot blown films are not heat-shrinkable films. Furthermore, as also noted above, for the chub application of the present invention, heat shrinkability is not a desirable feature; heat shrinkable film is too expensive and difficult to produce, requiring particular extruders, for an application that does not require heat shrinkability. Moreover, both US Patent 6,146,726 to Yoshii, et al. and US Patent 6,074,715 to Lind, et al. disclose that polyamide and copolyamide are optional, and thus, they teach use of polyamide and copolyamide makes an equally effective film as use of other polymers. As noted, applicant's inventive film is *free of polyamide and copolyamide*, and is not a heat-shrinkable film, but rather is a hot blown film.

Hence, contrary to the Examiner's allegation, a combination of documents referring to heat-shrinkable films on the one hand and non-heat-shrinkable films containing polyamide, copolyamide, and nylon 6 on the other hand, does not suggest or teach the presently claimed invention to the person of ordinary skill in the art.

Thus, although both applicant's inventive film and the film according to US Patent 4,909,726 to Bekele are hot blown films suitable for chub packaging, combining US Patent 4,909,726 to Bekele (requires polyamide and/or copolyamide) into US Patent 6,146,726 to Yoshii, et al. and



Atty. Docket No. 014442-000002a
Application. No. 10/707,346
Amendment Responsive to 09/30/2005 Office Action

US Patent 6,074,715 to Lind, et al. (both require heat-shrinkable film and both teach polyamide and copolyamide to be as effective as other polymers) does not render obvious applicant's inventive film.

Accordingly, the Examiner is respectfully requested to withdraw the rejection of claims 7, 11, 13, 14, 17, 27, and 28 under 35 USC 103(a) as being obvious over US Patent 6,146,726 to Yoshii, et al., in view of US Patent 4,909,726 to Bekele and US Patent 6,074,715 to Lind, et al.

Allowance of claim 23.

The Examiner objected to claim 23, and indicated that claim 23 would be allowable if rewritten to be independent. Claim 23 has been amended so that it is now independent.

Accordingly, the Examiner is respectfully requested to withdraw the objection to claim 23.

CONCLUSION

In view of the above amendments and remarks, applicant respectfully requests the Examiner to withdraw all of the objections under 112, second paragraph, 102(b) and 103(a). Applicant respectfully submits that the application is in condition for allowance, and earnestly solicits notification of allowance.

AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT

Although a \$225.00 check (small entity) is enclosed for the fee for the 2-month extension of time and thus it is believed that no additional fee is due, the Commissioner is authorized to charge additional fees which may be required by this paper, or to credit any overpayments, to Deposit Account No. 13-4365.

Respectfully submitted,

(SIGNATURE OF ATTORNEY)

February 28, 2006
(DATE)

Reg. No.: 30,687
Tel No.: (919) 286-8000

Jennifer L. Skord
430 Davis Drive, Suite 500
Morrisville, North Carolina 27560

Encls.: Petition for 2-month extension of time
\$225.00 check for extension fee